

### **REMARKS / ARGUMENTS**

The present application includes pending claims 1-24, all of which have been rejected. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1, 7, 10-12, 18, and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over USP 4,896,934 ("Arthurs"), in view of USP 7,151,777 ("Sawey"). Claims 2-6, 8-9, 13-17, and 19-23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Arthurs in view of Sawey, further in view of USP 6,484,261 ("Wieget"). The Applicant respectfully traverses these rejections at least based on the following remarks.

### **REJECTION UNDER 35 U.S.C. § 103**

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure, Rev. 6, Sep. 2007 ("MPEP") states the following:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

See the MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). Further, MPEP § 2143.01 states that “the mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art” (citing *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007)). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

**I. The Proposed Combination of Arthurs and Sawey Does Not Render Claims 1, 7, 10-12, 18, and 24 Unpatentable**

The Applicant now turns to the rejection of claims 1, 7, 10-12, 18, and 24 as being unpatentable over Arthurs in view of Sawey. The Applicant notes that the proposed combination of Arthurs and Sawey forms the basis for all of the pending rejections.

**A. Rejection of Independent Claims 1 and 12 under 35 U.S.C. § 103(a)**

With regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Arthurs and Sawey does not disclose or

suggest at least the limitation of “comparing said destination port bit map with a physical port security bit map to generate a bit map of allowed destination ports, wherein said physical port security bit map is generated, after said receiving, based on information in said received frame of digital data,” as recited by the Applicant in independent claim 1.

The Office Action states the following:

Referring to claim 1:

i. Authurs teaches: A method of providing physical port security in a digital communication system, comprising:

receiving a frame of digital data at a network device (see figure 3 'packet format', of Authurs);

a destination port bit map based on the destination address information contained in said frame of digital data (see figure 3, element 'destination bitmap field'; and column 5, lines 50-54, of Authurs);

*comparing said destination port bit map with a physical port security bit map to generate a bit map of allowed destination ports, wherein said physical port security bit map is generated, after said receiving, based on information in said received frame of digital data (see column 5, lines 58-65; column 6, lines 4-9; and column 7, lines 1-3, of Authurs); and*

forwarding said frame of digital data to one or more of said allowed destination ports (see figure 1, elements 14-1 ..14-n 'output ports', of Authurs).

See the Office Action at pages 2-3 (emphasis added). The Examiner has equated Applicant's “destination port bitmap” to Arthurs' destination bitmap field (as illustrated in Fig. 4 of the reference), and Applicant's “physical port security bitmap” with Arthurs' Output Availability Field in a token. Initially, the Applicant points out that Arthurs' Output Availability Field in a token is **not** a physical port security bitmap of allowed destination ports. More specifically, **the Output Availability Field of a complete token is a list of**

**all output ports (not only allowed destination ports), and it indicates which output port has been reserved to receive transmitted data.** See Arthurs at col. 5, line 58 – col. 6, line 3.

Furthermore, even if we assume, arguendo, that Arthurs' Output Availability Field is in fact a physical port security bitmap of allowed destination ports, the Examiner's argument is still deficient. More specifically, as clearly stated in Arthurs (e.g., col. 6, lines 4-9 and 16-21), **the token (including its Output Availability Field) is written during the first control phase (the "write phase"), which takes place at the input ports and prior to transmitting the data and the token to the reception side (i.e., the output ports).** This is clearly illustrated in Fig. 1 of Arthurs, where the token generator generates the empty token, and then the Output Availability Field of the empty token is filled out as it "travels" from input port to input port and then is transmitted via the optical star network to the output ports of the receive side. In this regard, **Arthurs' Output Availability Field is not generated after receiving of the frame of digital data.** Furthermore, generating of Arthurs' Output Availability Field is also not based on information in the received frame of digital data (since it was generated prior to the digital data is even transmitted to the output ports). Sawey does not overcome the above deficiencies of Arthurs.

Therefore, the Applicant maintains that the combination of Arthurs and Sawey does not disclose or suggest at least the limitation of "comparing said destination port bit map with a physical port security bit map to generate a bit map of allowed destination

ports, wherein said physical port security bit map is generated, after said receiving, based on information in said received frame of digital data,” as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is allowable. Independent claim 12 is similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claim 12 is also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

**B. Rejection of Dependent Claims 7, 10-11, 18, and 24**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1 and 12 under 35 U.S.C. § 103(a) has been overcome and request that the rejection be withdrawn. Additionally, claims 7, 10-11, 18, and 24 depend from independent claims 1 and 12, respectively, and are, consequently, also respectfully submitted to be allowable.

Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 7, 10-11, 18, and 24.

**II. The Proposed Combination of Arthurs, Sawey and Wieget Does Not Render Claims 2-6, 8-9, 13-17, and 19-23 Unpatentable**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1 and 12 under 35 U.S.C. § 103(a) as being unpatentable over

Arthurs in view of Sawey has been overcome and request that the rejection be withdrawn. Additionally, since the additional cited reference (Wieget) does not overcome the deficiencies of Arthurs and Sawey, claims 2-6, 8-9, 13-17, and 19-23 depend from independent claims 1 and 12, and are, consequently, also respectfully submitted to be allowable.

Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-6, 8-9, 13-17, and 19-23.

**CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-24 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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